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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,820	05/23/2005	Emil Edwin	04150.0016U1	2413
23859 7590 02/11/2008 NEEDLE & ROSENBERG, P.C. SUITE 1000 999 PEACHTREE STREET ATLANTA, GA 30309-3915				
EXAMINER PATIDAR, JAY M				
ART UNIT		PAPER NUMBER		
2862				
MAIL DATE		DELIVERY MODE		
02/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/521,820

Applicant(s)

EDWIN ET AL.

Examiner

JAY M. PATIDAR

Art Unit

2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 10-12 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 8, 9 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. This communication is in response to applicant's amendment received on November 19, 2007.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,6-7,10-12,14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golick et al. (EP 0028487).

As to claims 1-2,6,16, Golick discloses a method and apparatus for magnetically detecting thickness of the coating with a Hall sensing element 54 and a magnetic field generating means 54 (note fig. 1, whole document). The thickness is estimated from the resultant magnetic flux density at the surface of the steel member. Golick does not explicitly disclose measuring chromium depletion from a steel member. The provision of measuring chromium depletion is considered an intended manner of operation or intended use. It is known in the art that chromium is magnetic permeable, one ordinary skill in the art would

monitor or detect such portion by measuring magnetic field density at the surface. Therefore, by measuring the magnetic flux density, an indication of the amount of chromium could be made and would provide the thickness of it. Consequently, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the device of Golick to monitor or measure the thickness of chromium depletion in the cracking tubes since such device is known in the magnetic field sensing art to determine the thickness of a layer or a coating using the combination of Hall sensor and the permanent magnet.

As to claims 3,4,14-15,17, one ordinary skill in the art would estimate the state of a surface oxide layer from the measurement of the thickness or state of burners since the chromium-depleted layer provides information regarding the oxide layer and the state of burners.

As to claim 7, Golick discloses the flux lines being normal to the surface (fig. 1).

As to claim 10, the magnetic field is generated by a permanent magnet 52 (fig. 1).

As to claims 11, Golick discloses a Hall effect element 54 proximate the surface of the object (fig. 1).

As to claim 12, the use of a protective cover or pad between the sensor and the object is known in the magnetic field art to protect the sensing element.

3. Claims 8-9 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to show the magnet axis between 30-60 degrees as set forth in claims 8-9,13.
5. Applicant's arguments filed on November 19, 2007 have been fully considered but they are not persuasive. In response to applicant's arguments, as indicated above Golick discloses the use of the magnet and Hall sensing element to determine the thickness of the layered material based on the resultant flux density at the surface of the object. This feature is known in the art. In response to applicant's argument that Golick does not disclose a method for measuring a thickness of a chromium-depleted zone from a steel member, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAY M. PATIDAR whose telephone number is (571)272-2265. The examiner can normally be reached on M-Thur 8:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assoud can be reached on 571-272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jay M. Patidar/
Primary Examiner
Art Unit 2862

January 30, 2008